

November 7, 2017

Mr. Henry A. Leskinen  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, MD 21057

Re: Victory Villa Baptist Church  
Forest Conservation Variance  
Tracking # 06-17-2563

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on September 19, 2017. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 1,000-square foot (sf) limit of disturbance rather than the entire two acre property.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to construct an 840-sf storage shed on existing lawn adjacent to the church. Full application of the County's Forest Conservation Law would result in a 0.3-acre afforestation requirement. Although full compliance with this law represents an economic hardship for the applicant, it would not deprive the applicant of all beneficial use of the property. As a result, we find that the first criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to unique circumstances

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associated with the cost of compliance with this law rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance would result in a shed to provide additional storage room for the church. Given the small size of the shed and its ancillary use to the property's long standing use as a place of worship, we have determined that granting this variance will not alter the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. While no streams or wetlands exist on the church property, there is a stream system on the adjacent property. However, the proposed storage shed will be located outside the Forest Buffer to that stream and its adjacent wetlands. Therefore, we find that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the limit of disturbance for the construction of a storage shed would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given the small scope of the development activity and that no forest, specimen trees or Forest Buffers will be impacted. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code.

Due to the fact that the afforestation requirement for the proposed storage shed is negligible (<0.1 acre), there will be no afforestation requirement for the construction of this shed. However, this variance approval does not exempt future development activities at this property from compliance with the Forest Conservation Law. It is the intent of this Department to approve this variance based on the circumstances and considerations

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cited above. Any changes to site layout or the proposed development activity may require submittal of revised plans and a new variance request.

If you have any questions regarding this correspondence, please call Mr. Gris Batchelder at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/cgb

c. Pastor James Howell, Victory Villa Baptist Church